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# MONTANA LEGISLATIVE HISTORY

Chapter 293 19 91

Bill H 191 S _____ Original bill & history ____C

| H. Committee on Judiciary | | S. Committee on Judiciary | |
|---|---|---|---|
| Hearing Date(s) Jan 24 | ✓ C | Hearing Date(s) Mar 18 | ✓ C |
| _____ | ____C | _____ | ____C |
| _____ | ____C | _____ | ____C |
| _____ | ____C | _____ | ____C |
| Date Out Jan 24 | ✓ C | Mar 18 | ✓ C |

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

CHAPTER NUMBER 108 EFFECTIVE DATE: 10/01/91

HB 190 INTRODUCED BY R. DEBRUYCKER
DISTRIBUTE A PORTION OF NOXIOUS WEED
FEES TO COUNTIES FOR WEED CONTROL

| | | | |
|---|---|---|---|
| 1/15 | INTRODUCED | | |
| 1/15 | REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG. | | |
| 1/16 | FIRST READING | | |
| 1/16 | FISCAL NOTE REQUESTED | | |
| 1/21 | FISCAL NOTE RECEIVED | | |
| 1/22 | FISCAL NOTE PRINTED | | |
| 1/23 | HEARING | | |
| 1/23 | TABLED IN COMMITTEE | | |

HB 191 INTRODUCED BY MEASURE, ET AL.
UNIFORM CONFLICT OF LAWS — LIMITATIONS ACT

| | | | |
|---|---|---|---|
| 1/15 | INTRODUCED | | |
| 1/15 | REFERRED TO JUDICIARY | | |
| 1/16 | FIRST READING | | |
| 1/24 | HEARING | | |
| 1/24 | COMMITTEE REPORT—BILL PASSED | | |
| 1/26 | 2ND READING PASSED | 88 | 1 |
| 1/30 | 3RD READING PASSED | 97 | 3 |
| | TRANSMITTED TO SENATE | | |
| 1/31 | FIRST READING | | |
| 1/31 | REFERRED TO JUDICIARY | | |
| 3/18 | HEARING | | |
| 3/18 | COMMITTEE REPORT—BILL CONCURRED | | |
| 3/20 | 2ND READING CONCURRED | 48 | 0 |
| 3/21 | 3RD READING CONCURRED | 49 | 0 |
| | RETURNED TO HOUSE | | |
| 3/25 | SIGNED BY SPEAKER | | |
| 3/26 | SIGNED BY PRESIDENT | | |
| 3/26 | TRANSMITTED TO GOVERNOR | | |
| 4/01 | SIGNED BY GOVERNOR | | |

CHAPTER NUMBER 293 EFFECTIVE DATE: 10/01/91

HB 192 INTRODUCED BY WANZENRIED, ET AL.
INCLUDE TRANSPORTING LOGS UNDER MOTOR CARRIER ACT;
ESTABLISH CONTRACT TERMS

| | | | |
|---|---|---|---|
| 1/15 | INTRODUCED | | |
| 1/15 | REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT | | |
| 1/16 | FIRST READING | | |
| 1/17 | REREFERRED TO HIGHWAYS & TRANSPORTATION | | |
| 2/07 | HEARING | | |
| 2/09 | FISCAL NOTE REQUESTED | | |
| 2/14 | FISCAL NOTE RECEIVED | | |
| 2/15 | FISCAL NOTE PRINTED | | |
| 2/16 | COMMITTEE REPORT—BILL PASSED | | |
| 2/25 | 2ND READING PASSED | 58 | 40 |
| 2/26 | 3RD READING PASSED | 60 | 40 |
| | TRANSMITTED TO SENATE | | |
| 2/26 | FIRST READING | | |
| 2/26 | REFERRED TO HIGHWAYS & TRANSPORTATION | | |
| 3/21 | HEARING | | |
| 3/28 | COMMITTEE REPORT—BILL CONCURRED AS AMENDED | | |
| 4/04 | 2ND READING CONCURRED | 33 | 13 |
| 4/05 | 3RD READING CONCURRED | 38 | 12 |
| | RETURNED TO HOUSE WITH AMENDMENTS | | |
| 4/09 | 2ND READING AMENDMENTS CONCURRED | 92 | 3 |

words; "a person of the opposite sex." This will equalize the sentences, particularly when involved in a homosexual rape or sexual abuse against boys and girls. Line 22 of page 1, deals with rape of juveniles in which the penalty is a maximum of 40 years. By eliminating the language concerning 20 years penalty, we did two things. One, if one is involved in a homosexual rape of children, boys and girls, that person would fall under the section dealing with penalty up to 40 years instead of, as now, 20 years. The second, 41-5-206 in the Montana Statutes, deals with transfer of cases to criminal court. The language states that if the person charged with 12 years of age or more, the intent of the conduct alleged to be unlawful and the unlawful act constitutes sexual intercourse without consent and therefore, the county attorney can petition the case to the District Court.

Proponents' Testimony:

Jennifer Bordy, Deputy Gallatin County Attorney, stated that because the youth statutes do no permit transfer to District Court unless the offense is sexual intercourse without consent, an offender is tried in youth court and usually walks out without being sentenced to treatment. The other problems with the law as it now stands, does not address non-consensual sexual intercourse when it occurs even between two adult males. It shouldn't be any less a crime if a person forcefully makes another engage in sexual intercourse with them whether or not it be a person of the same sex or the opposite sex. Particularly when it comes to children, it should be no less a crime whether that person molests a child of the same sex or of the opposite sex.

Also, under the definition of deviate sexual conduct, two different crimes exist. One, between consenting adults of the same sex and the other, without consent usually when the victim is less than sixteen years old. It shouldn't be considered the same crime between two consenting adults as between an adult and a child. The way the statute is worded now, "without consent" in acts of deviate sexual conduct, it makes it difficult to tell whether consent is an element of crime that the state would have to prove in criminal prosecution. This is because the only place the words "without consent" appear is in the sentencing portion of the statute.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor: none

## HEARING ON HB #191
## UNIFORM CONFLICT OF LAWS -- LIMITATIONS ACT

Presentation and Opening Statement by Sponsor:

REP. MEASURE, HOUSE DISTRICT 6, stated that HB 191 is an act adopting the uniform conflict of laws, providing for a method of determining the applicable statute of limitations when other state laws are involved in a civil proceeding in Montana. What

the bill addresses are situations where the laws of other states may be applied in Montana. For one reason or another, if a statute of limitations in another state is shorter or longer and either the plaintiff is denied for a conflict of laws or the defendant might have a problem with too long of a statute of limitations of this bill is required to resolve such problems.. The American Bar Association have been meeting in an effort to resolve conflicts in laws. They started addressing the problem of statute of limitations in 1982 and adopted a statute of limitations act which they offered to all the state legislatures to adopt. At present, only about 7 states have adopted this uniform legislation.

Proponents' Testimony:

SENATOR MAZUREK, HOUSE DISTRICT 23, stated that HB 191 outlines a procedure whereby, if an incident or injury occurs in one state and the court decides to choose the substantive law of that state, it can know how to determine what kind of claim one can bring, what the value of the claim would be. At the same time, one could also adopt the statute of limitations law of that state. This is a fairness bill that is a good idea. "I urge you to consider it."

John Alkie, Montana Defense Trail Lawyers Association, stated they also support this bill.

Michael Sherwood, Montana Trial Lawyers Association, stated his association supports this bill for the reasons set forth by the other proponents.

Opponents' Testimony: none

Questions From Committee Members:

REP. TOOLE asked SEN. MAZUREK what effect the amendment to the existing statute in section 8 has? SEN. MAZUREK said that the section the amendment is in is basically an escape clause for already existing claims.

Closing by Sponsor: none

## HEARING ON HB #221
## REVISION OF AMT. OF FINE CREDITED FOR JAIL TIME FOR TRAFFIC VIO.

Presentation and Opening Statement by Sponsor:

REP. TOOLE, HOUSE DISTRICT 60, noted that HB 221 is an act to increase to $25 a day the rate by which a person offsets a fine if that person cannot pay or does not pay it, by spending time in jail. This amends two sections, 61-8-711 and 61-9-511, both are inclusive codes and bring these provisions into conformity with the Criminal Code provisions.

Motion/Vote: REP. TOOLE moved to amend HB 173 with the amendment stated by John MacMaster. Motion carried.

Motion/Vote: REP. TOOLE MOVED HB 173 DO PASS AS AMENDED. Motion carried.

EXECUTIVE ACTION ON HB #211

Motion/Vote: REP. GOULD MOVED HB 211 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB #191

Motion/Vote: REP. MEASURE MOVED HB 191 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB #221

Motion/Vote: REP. TOOLE MOVED HB 211 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB #197

Motion: REP. BOHARSKI MOVED HB 197 DO PASS.

Motion/Vote: REP. BOHARSKI moved to amend HB 197. EXHIBIT 1 Motion carried.

Motion/Vote: REP. MEASURE moved to amend HB 197 with the amendment requested by Ms. Van Riper to drop the word "compensation" before benefits anywhere it appears in the bill. Motion carried.

Motion/Vote: REP. RICE MOVED HB 197 DO PASS AS AMENDED. Motion carried.

ADJOURNMENT

Adjournment: 11 a.m.

BILL STRIZICH, Chair

JEANNE DOMME, Secretary

BS/jmd

JU012491.HM1

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE Jan. 24, 1991

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| REP. VIVIAN BROOKE, VICE-CHAIR | ✓ | | |
| REP. ARLENE BECKER | ✓ | | |
| REP. WILLIAM BOHARSKI | ✓ | | |
| REP. DAVE BROWN | | | ✓ |
| REP. ROBERT CLARK | ✓ | | |
| REP. PAULA DARKO | ✓ | | |
| REP. BUDD GOULD | ✓ | | |
| REP. ROYAL JOHNSON | ✓ | | |
| REP. VERNON KELLER | ✓ | | |
| REP. THOMAS LEE | ✓ | | |
| REP. BRUCE MEASURE | ✓ | | |
| REP. CHARLOTTE MESSMORE | ✓ | | |
| REP. LINDA NELSON | ✓ | | |
| REP. JIM RICE | ✓ | | |
| REP. ANGELA RUSSELL | ✓ | | |
| REP. JESSICA STICKNEY | ✓ | | |
| REP. HOWARD TOOLE | ✓ | | |
| REP. TIM WHALEN | | | ✓ |
| REP. DIANA WYATT | ✓ | | |
| REP. BILL STRIZICH, CHAIRMAN | ✓ | | |
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1-24-91
HB

# HOUSE STANDING COMMITTEE REPORT

January 24, 1991


Mr. Speaker: We, the committee on Judiciary report that House Bill 191 (first reading copy -- white) do pass .

Signed: _____
Bill Strizich, Chairman

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. HB #91

DATE 1-24-91 SPONSOR(S) Rep. Measure

PLEASE PRINT PLEASE PRINT PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| D. [illegible] | [illegible] | ✓ | |
| Michael Sherwood | MTLA | ✓ | |
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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

# MINUTES

## MONTANA SENATE
## 52nd LEGISLATURE - REGULAR SESSION

## COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dick Pinsoneault, on March 18, 1991, at 10:00 a.m.

## ROLL CALL

Members Present:

Dick Pinsoneault, Chairman (D)
Bill Yellowtail, Vice Chairman (D)
Robert Brown (R)
Bruce Crippen (R)
Steve Doherty (D)
Lorents Grosfield (R)
Mike Halligan (D)
Joseph Mazurek (D)
David Rye (R)
Paul Svrcek (D)
Thomas Towe (D)

**Members Excused:** John Harp (R)

**Staff Present:** Valencia Lane (Legislative Council).

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Announcements/Discussion:** The hearings of HB 552 and HB 741 were combined.

## HEARING ON HOUSE BILL 191

**Presentation and Opening Statement by Sponsor:**

Representative Bruce Measure, District 6, said the bill is an act adopting the uniform conflict of laws which provided for a method of determining the applicable statute of limitations when other state laws are involved in a civil proceeding in Montana; and amending Section 27-2-104, MCA. He said Senator Mazurek would carry HB 191.

Representative Measure said he believed HB 191 was quite straight forward, and asked that the Committee review it. He stated that he didn't believe there were any proponents or opponents of HB 191.

Proponents' Testimony:

John Alke, Helena attorney representing the Montana Defense Trial Lawyers Association, told the committee that the general purpose of HB 191 is to prevent parties from forum shopping in Montana simply to get a longer statute of limitations. He noted that the Montana Defense Trial Lawyers Association supports HB 191 and thinks that it is fair. Mr. Alke asked the Committee to support the bill.

Opponents' Testimony:

There were no opponents of HB 191.

Questions from Committee Members:

Senator Mazurek asked if the Montana Trial Lawyers Association supported HB 191. Representative Measure replied that they did.

Closing by Sponsor:

Representative Measure thanked the Committee, and asked them to pass HB 191.

## EXECUTIVE ACTION ON HOUSE BILL 191

Motion:

Senator Halligan made a motion that HB 191 BE CONCURRED IN.

Discussion:

There was no discussion.

Amendments, Discussion and Votes:

There were no amendments.

Recommendation and Vote:

The motion made by Senator Halligan carried unanimously.

## HEARING ON HOUSE BILL 471

Presentation and Opening Statement by Sponsor:

Representative Royal C. Johnson, District 88, stated that HB 471, an act to generally revise the law relating to trusts to clarify that a trust includes a trust created in connection with

ROLL CALL

SENATE JUDICIARY COMMITTEE

52nd LEGISLATIVE SESSION -- 1991

Date 3-18-91
10:00 am

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| Sen. Pinsoneault | / | | |
| Sen. Yellowtail | / | | |
| Sen. Brown | / | | |
| Sen. Crippen | / | | |
| Sen. Doherty | / | | |
| Sen. Grosfield | / | | |
| Sen. Halligan | / | | |
| Sen. Harp | | | |
| Sen. Mazurek | / | | |
| Sen. Rye | / | | |
| Sen. Svrcek | / | | |
| Sen. Towe | / | | |
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Each day attach to minutes.

# SENATE STANDING COMMITTEE REPORT


March 18, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 191 (third reading copy -- blue), respectfully report that House Bill No. 191 be concurred in.

Signed: _____
Richard Pinsoneault, Chairman

LB 3/18/91
Amd. Coord.

3/18 (13:37)
Sec. of Senate